




State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/05/2013 (Per: PJK)

Appendix B ... segment III

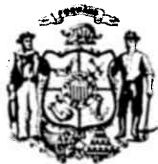
Appendix A  The drafting file for LRB 13-0016 (used to create 13-3081)
(Representative Kleefisch)

Appendix B  The drafting file for LRB 11-3501 (used to create 13-0016)
(Representative Kleefisch)

has been transferred to the drafting file for

2013 LRB-3081

(Representative Kleefisch)



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment III

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB-3501/1 (For: Rep. Kleefisch)

has been transferred to the drafting file for

2013 LRB-0016 (For: Rep. Kleefisch)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 09/04/2012 (Per: PJK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3501/2

PJK:sac&med:ms

for not run
Stange

2011 BILL

by Tues pm, please
(in 2-27)
D-note

regenerate

1 AN ACT *to renumber and amend* 767.511 (1j) and 767.511 (2); *to amend*
2 767.215 (1) (b), 767.215 (2m) (a) 2., 767.225 (1n) (b) 1., 767.511 (1) (a), 767.511
3 (1j) (title), 767.511 (1m) (intro.), 767.511 (1n), 767.511 (2) (title), 767.513 (2),
4 767.55 (2) (c), 767.553 (1) (a), 767.553 (1) (b), 767.59 (1f) (b) 4., 767.59 (2) (a),
5 767.80 (7), 767.813 (6) and 767.85 (2); and *to create* 767.511 (1j) (a), 767.511
6 (1j) (b) 1., 767.511 (1j) (b) 2., 767.511 (1j) (b) 2m., 767.511 (1j) (b) 3., 767.511 (1j)
7 (b) 4., 767.511 (1j) (b) 5., 767.511 (1m) (bc), 767.511 (1p), 767.511 (2) (b) and
8 767.59 (1f) (b) 5. of the statutes; **relating to:** calculating child support and
9 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, in divorces, paternity actions, and other actions affecting the family in which there are minor children the court is required to order either or both parents to pay an amount that is reasonable or necessary to fulfill a duty to support a child. The court must generally determine child support payments by using the percentage standard set out in the Wisconsin Administrative Code (code) and established by the Department of Children and Families (DCF). The percentage standard is a percentage of the child support payer's monthly income available for

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support. The percentage that the child support payer must pay varies with the number of children to be supported. Under the percentage standard, a payer must pay 17 percent of his or her monthly income available for support for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for five or more children. Generally, the parent who has physical placement with a child for less time is ordered to pay child support to the other parent on the basis of the percentage standard.

In addition to the percentage standard, the code provides special methods that the court may, but is not required to, use for calculating child support in special situations: serial-family parents; shared-placement payers; split-placement payers; low-income payers; and high-income payers. A serial-family parent is a parent who is already obligated to pay child support and who is later ordered to pay support for another child, from a later marriage or a paternity adjudication, for example. The amount of support that the person must pay under the later order may be calculated by first reducing the payer's monthly income available for support by the amount under the first child support order and then applying the percentage standard to that reduced income amount.

Shared-placement parents are parents who both have physical placement with a child for at least 25 percent of the time or 92 days a year and who are both ordered by the court to assume the child's basic support costs in proportion to the time that the parent has placement of the child. For shared-placement parents, child support may be determined by multiplying each parent's income by the percentage standard, multiplying each of those resulting amounts by 150 percent, and then multiplying the resulting amount determined for each parent by the other parent's proportion of physical placement. The parent with the higher resulting amount pays to the other parent the difference between the amounts or the amount that would be determined by applying the percentage standard to his or her income, whichever is lower.

Split-placement parents are parents who have two or more children and each has placement with at least one but not all of the children. Under the code, child support may be determined by multiplying each parent's income by the pro rata percentage standard that applies for the number of children placed with the other parent. (For example, if there are two children and each parent has physical placement with one child, the pro rata percentage standard is 12.5 percent, or one-half of the 25 percent that applies for two children under the percentage standard.) The parent who would be required to pay the higher amount pays the difference to the other parent.

For low-income payers and high-income payers, the court may determine child support by using a schedule of percentages that are different from the percentages in the percentage standard. Currently, a low-income payer is one with annual income available for support of \$16,200 or less. This amount, which is 150 percent of poverty, is adjusted based on federal poverty guidelines. The schedule of percentages is reduced for each income level in gradients of \$25 per monthly income amount. Currently, the percentages, depending on income level, range from 11.11 percent to 17 percent for one child and from 22.22 percent to 34 percent for five or more children. For high-income payers, child support may be determined by

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multiplying annual income available for support that is less than \$84,000 by the usual percentages of the percentage standard, income between \$84,000 and \$150,000 by a different schedule of percentages that are about 80 percent of the usual percentages, and income above \$150,000 by another schedule of percentages that are about 60 percent of the usual percentages. For example, for a payer with annual income available for support above \$150,000, child support for one child may be determined by multiplying the payer's monthly income under \$7,000 by 17 percent, multiplying the additional monthly income between \$7,000 and \$12,500 by 14 percent, multiplying the additional monthly income over \$12,500 by 10 percent, and adding together the amounts obtained.

The code provides that the court must determine a parent's monthly income that is available for child support by dividing by 12 the sum of the parent's gross annual income, or gross annual income modified for business expenses, the parent's annual imputed income based on earning capacity, and the parent's annual income imputed from assets. Under the code, the court may impute income to a payer if the court determines that the payer's income is less than his or her earning capacity or if the payer has unproductive assets or has diverted income into assets to avoid paying child support. For imputing income based on earning capacity, the court assesses the parent's education, training, previous work experience and income level, and the availability of work in or near the parent's community. Income imputation for unproductive assets involves multiplying the net value of the parent's assets by the current six-month treasury bill rate or another reasonable rate.

Under the statutes, a court is authorized, upon a party's request, to modify the amount of child support that would be ordered by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or either of the parties. In making this finding, the court must consider a number of factors, such as the earning capacity of each parent, the desirability that the custodian remain in the home as a full-time parent, and extraordinary travel expenses incurred in exercising physical placement rights.

This bill sets out a child support percentage standard in the statutes for actions affecting the family and specifies how a court must determine child support, including for revisions of existing child support orders. Under the bill, the court must determine the support obligation of each parent who has physical placement with a child for less than 75 percent of the time and order one or both parents to pay an amount for the support of the child. To calculate a parent's child support obligation, the parent's net monthly income, which is the parent's gross monthly income, determined in the manner provided in the code, less federal and state income tax required by law to be withheld or to be paid by a self-employed individual, is multiplied by a specified percentage. If a parent's net monthly income is \$7,000 or less (which equals \$84,000 or less of net annual income), his or her total net monthly income is multiplied by the same percentages as the percentage standard under the code: 17 percent for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for more than four children. However, if a parent's net monthly income exceeds \$7,000, his or her total net monthly income is multiplied by 14 percent for one child, 20 percent for two children,

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23 percent for three children, 25 percent for four children, and 27 percent for more than four children, except that the court may not calculate a parent's child support obligation on any of the parent's net income that exceeds \$150,000 per year, annually adjusted in accordance with the consumer price index.

Under current law, in addition to ordering child support for a child, the court is required to assign responsibility for payment of the child's health care expenses and may require a parent to initiate or continue health insurance coverage for the child. Under the bill, after determining a parent's monthly child support obligation, the court must deduct from that amount any amount the parent currently pays, or is ordered to pay, for the child's health care coverage, health care expenses not covered by insurance, and child care expenses. Then, if both parents have physical placement with a child for more than 25 percent of the time, each parent's child support obligation, thus determined, is multiplied by the percentage of time that the other parent has physical placement with the child to determine each parent's comparative child support obligation. Whichever parent has the larger comparative child support obligation pays the difference between the two to the other parent as child support.

Under the bill, a court is still authorized, upon a party's request, to modify the amount of child support that would be ordered by using the new percentage standard if the court finds that its use is unfair to the child or either of the parties after considering the factors under current law. ~~The~~ bill adds, as another factor for the court to consider, the amount of income actually available to a parent for the payment of child support. The bill directs DCF to promulgate rules on how to compute the amount of income actually available to a parent, and provides that, if a parent is self-employed, there is a rebuttable presumption that a cash flow statement from a certified public accountant on behalf of the parent establishes the parent's income that is actually available for support.

Current law provides that the court may require a portion of the amount that either party must pay in child support to be set aside in a separate fund or trust for the support, education, and welfare of the child. The bill does not change the ability of the court to set funds aside for the child. The bill adds, however, that if the court determines that the amount of child support calculated in the new manner exceeds the amount reasonably necessary to support the child's current needs, the court must order the excess to be deposited in an account that requires the signatures of both parents for withdrawal, to be used for any extraordinary needs of the child. When the child support obligation ends, any funds remaining must be used for postsecondary education expenses of the child. Any funds remaining after ten years after the child support obligation ends must be returned to the parent or parents in proportion to their comparative child support obligations or distributed in another manner specified by the court.

Under current law, the court may revise the amount of child support under an existing order only if the court finds that there has been a substantial change in circumstances. The bill provides that the creation of the new percentage standard in the statutes and the other new requirements related to determining child support constitute a substantial change in circumstances on which a revision may be based.

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The bill also provides that any agreement related to child support that was entered into before the effective date of the bill that has not yet been approved by a court is void unless the parties reaffirm the agreement in writing or in open court on or after the effective date of the bill. Finally, the bill provides that the court may determine a parent's child support obligation in conformity with any provisions of the code that are not in conflict with the new percentage standard or other new requirements in the statutes.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 767.215 (1) (b) of the statutes is amended to read:

2 767.215 (1) (b) The clerk of court shall provide without charge, to each person
3 filing a petition requesting child support, a document setting forth the percentage
4 standard ~~established by the department under s. 49.22 (9)~~ 767.511 (1j) (b) and listing
5 the factors that a court may consider under s. 767.511 (1m).

6 SECTION 2. 767.215 (2m) (a) 2. of the statutes is amended to read:

7 767.215 (2m) (a) 2. Shall be accompanied by a document, provided without
8 charge by the clerk of court, setting forth the percentage standard under s. 767.511
9 (1j) (b) or, if the action affecting the family is one under s. 767.001 (1) (m), the
10 percentage standard established by the department under s. 49.22 (9) and listing the
11 factors that a court may consider under s. 767.511 (1m).

12 SECTION 3. 767.225 (1n) (b) 1. of the statutes is amended to read:

13 767.225 (1n) (b) 1. If the court makes a temporary child support order that
14 deviates from the amount of support that would be required by using the percentage
15 standard under s. 767.511 (1j) (b) or, if the action affecting the family is one under
16 s. 767.001 (1) (m), the percentage standard established by the department under s.

(17) 49.22 (9), the court shall comply with the requirements of s. 767.511 (1n) ~~(1n)~~ → (1r)
relating to the court's statements in writing
or on the record under
described ~~strike~~

BILL

SECTION 4

1 SECTION 4. 767.511 (1) (a) of the statutes is amended to read:

2 767.511 (1) (a) ~~Order~~ Determine the support obligation of each parent who has
3 physical placement with his or her child for less than 75 percent of the time and order
4 either or both parents to pay an amount reasonable or necessary to fulfill a duty to
5 support ~~a~~ the child. The support amount must be expressed as a fixed sum unless
6 the parties have stipulated to expressing the amount as a percentage of the payer's
7 income and the requirements under s. 767.34 (2) (am) 1. to 3. are satisfied.

8 SECTION 5. 767.511 (1j) (title) of the statutes is amended to read:

9 767.511 (1j) (title) ~~PERCENTAGE CALCULATION: PERCENTAGE~~ STANDARD GENERALLY
10 REQUIRED.

11 SECTION 6. 767.511 (1j) of the statutes is renumbered 767.511 (1j) (b) (intro.)
12 and amended to read:

13 767.511 (1j) (b) (intro.) Except as provided in sub. (1m), the court shall
14 determine the child support payments by using the percentage standard established
15 by the department under s. 49.22 (9). obligation of a parent in the following manner:

16 SECTION 7. 767.511 (1j) (a) of the statutes is created to read:

17 767.511 (1j) (a) In this subsection:

18 1. "Gross income" has the meaning given in s. DCF 150.02 (13) (a), Wis. Adm.

19 Code. that would be

Insert 6-21

20 2. "Net income" means gross income less federal and state income tax required

21 by law to be withheld or to be paid by a self-employed individual

Insert 6-22

22 SECTION 8. 767.511 (1j) (b) 1. of the statutes is created to read:

23 767.511 (1j) (b) 1. Subject to subd. 3., if the parent's total monthly net income
24 is \$7,000 or less, his or her monthly child support obligation equals the amount that
25 is the following percentage of his or her total monthly net income:

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- 1 a. For one child, 17 percent.
- 2 b. For 2 children, 25 percent.
- 3 c. For 3 children, 29 percent.
- 4 d. For 4 children, 31 percent.
- 5 e. For more than 4 children, 34 percent.

6 **SECTION 9.** 767.511 (1j) (b) 2. of the statutes is created to read:

7 767.511 (1j) (b) 2. Subject to subds. 2m. and 3., if the parent's total monthly net
8 income exceeds \$7,000, his or her monthly child support obligation equals the
9 amount that is the following percentage of his or her total monthly net income:

- 10 a. For one child, 14 percent.
- 11 b. For 2 children, 20 percent.
- 12 c. For 3 children, 23 percent.
- 13 d. For 4 children, 25 percent.
- 14 e. For more than 4 children, 27 percent.

15 **SECTION 10.** 767.511 (1j) (b) 2m. of the statutes is created to read:

16 767.511 (1j) (b) 2m. The court may not calculate the amount of child support
17 that a parent is obligated to pay on any of the parent's net income that exceeds
18 \$150,000 per year ^{g' →} ^{Ⓢ This amount shall be} adjusted annually beginning in 2013, to reflect changes in the
19 consumer price index for all urban consumers, U.S. city average, as determined by
20 the U.S. department of labor.

21 **SECTION 11.** 767.511 (1j) (b) 3. of the statutes is created to read:

22 767.511 (1j) (b) 3. When the court calculates a parent's child support obligation,
23 unless the parties agree otherwise in writing or orally in open court, the court shall
24 reduce the amount determined under subd. 1. or 2. for the parent by the amount per

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1 month that the parent currently pays or is ordered to pay for any of the following
2 costs:

- 3 a. Health care coverage for the child.
- 4 b. The child's health care expenses that are not covered by insurance.
- 5 c. Child care expenses.

6 **SECTION 12.** 767.511 (1j) (b) 4. of the statutes is created to read:

7 767.511 (1j) (b) 4. If each parent has physical placement with a child for more
8 than 25 percent of the time, the child support obligation of each parent shall be
9 calculated as provided in subds. 1. to 3. and multiplied by the percentage of time that
10 the other parent has physical placement with the child. The product of a parent's
11 child support obligation multiplied by the percentage of time that the other parent
12 has physical placement with the child is that parent's comparative child support
13 obligation amount. Subject to sub. (2) (b), the parent with the larger comparative
14 child support obligation amount shall pay to the other parent that amount reduced
15 by the payee parent's comparative child support obligation amount.

16 **SECTION 13.** 767.511 (1j) (b) 5. of the statutes is created to read:

17 767.511 (1j) (b) 5. In addition to the calculations under subds. 1. to 4., the court
18 may determine a parent's child support obligation under this section in conformity
19 with any provisions of ch. DCF 150, Wis. Adm. Code, that are not in conflict with
20 subds. 1. to 4.

21 **SECTION 14.** 767.511 (1m) (intro.) of the statutes is amended to read:

22 767.511 (1m) DEVIATION FROM STANDARD; FACTORS. (intro.) Upon request by a
23 party, the court may modify the amount of child support payments determined under
(24) sub. (1j) if, after considering the following factors, the court finds by the greater

subject to sub. (1p)

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1 weight of the credible evidence that use of the that percentage standard is unfair to
2 the child or to any of the parties:

3 SECTION 15. 767.511 (1m) (bc) of the statutes is created to read:

4 767.511 (1m) (bc) The amount of income actually available to a parent for the
5 payment of child support.

6 SECTION 16. 767.511 (1n) of the statutes is amended to read:

7 767.511 (1n) DEVIATION FROM STANDARD; RECORD. If the court finds under sub.
8 (1m) that use of the percentage standard under sub. (1j) (b) is unfair to the child or
9 the requesting party, the court shall state in writing or on the record the amount of
10 support that would be required by using the percentage standard, the amount by
11 which the court's order deviates from that amount, its reasons for finding that use
12 of the percentage standard is unfair to the child or the party, its reasons for the
13 amount of the modification, and the basis for the modification.

14 SECTION 17. 767.511 (1p) of the statutes is created to read:

15 767.511 (1p) RULES FOR INCOME AVAILABLE FOR SUPPORT. The department shall
16 promulgate rules related to how the amount of income actually available to a parent
17 for the payment of child support shall be computed for purposes of sub. (1m) (bc). If
18 a parent is self-employed, there shall be a rebuttable presumption that a cash flow
19 statement provided by a certified public accountant on behalf of the parent
20 shall establishes the parent's income actually available for the payment of child support
21 for purposes of sub. (1m) (bc).

22 SECTION 18. 767.511 (2) (title) of the statutes is amended to read:

23 767.511 (2) (title) SEPARATE ACCOUNT FUND, OR TRUST.

24 SECTION 19. 767.511 (2) of the statutes is renumbered 767.511 (2) (a) and
25 amended to read:

Insert 9-5
change component

renumbered

767.511(1n) and

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1 767.511 (2) (a) The Except as provided in par. (b), the court may protect and
2 promote the best interests of the minor children by setting aside a portion of the child
3 support ~~which~~ that either party is ordered to pay in a separate fund or trust for the
4 support, education, and welfare of such children.

5 **SECTION 20.** 767.511 (2) (b) of the statutes is created to read:

6 767.511 (2) (b) If the court determines that the amount of child support
7 calculated in the manner provided in this section exceeds the amount reasonably
8 necessary to support the child's current needs, the court shall order that the excess
9 amount be deposited in an account requiring the signatures of both parents for
10 withdrawal, to be used for any extraordinary needs of the child on which the parents
11 agree. Any funds remaining in the account when the child support obligation ends
12 shall be used for postsecondary education expenses for the child. Any funds
13 remaining in the account after 10 years from the date on which the child support
14 obligation ends shall be returned to the parents in proportion to the comparative
15 child support obligation of each under sub. (1j) (b) 4. or, if only one parent had a child
16 support obligation, to that parent, or shall be distributed in another manner
17 specified by the court.

18 **SECTION 21.** 767.513 (2) of the statutes is amended to read:

19 767.513 (2) **RESPONSIBILITY AND PAYMENT.** In addition to ordering child support
20 for a child under s. 767.511 (1), and subject to s. 767.511 (1j) (b) 3., the court shall
21 specifically assign responsibility for and direct the manner of payment of the child's
22 health care expenses. In assigning responsibility for a child's health care expenses,
23 the court shall consider whether a child is covered under a parent's health insurance
24 policy or plan at the time the court approves a stipulation for child support under s.
25 767.34, enters a judgment of annulment, divorce, or legal separation, or enters an

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1 order or a judgment in a paternity action or in an action under s. 767.001 (1) (f) or
2 (j), 767.501, or 767.805 (3), the availability of health insurance to each parent
3 through an employer or other organization; the extent of coverage available to a
4 child, and the costs to the parent for the coverage of the child. A parent may be
5 required to initiate or continue health care insurance coverage for a child under this
6 section. If a parent is required to do so, he or she shall provide copies of necessary
7 program or policy identification to the custodial parent and is liable for any health
8 care costs for which he or she receives direct payment from an insurer. This section
9 shall not be construed to limit the authority of the court to enter or modify support
10 orders containing provisions for payment of medical expenses, medical costs, or
11 insurance premiums that are in addition to and not inconsistent with this section.

12 **SECTION 22.** 767.55 (2) (c) of the statutes is amended to read:

13 767.55 (2) (c) If the court enters an order under par. (am), it shall order the
14 parent to pay child support equal to the amount determined by applying the
15 percentage standard established under s. ~~49.22 (9)~~ 767.511 (1j) (b) or equal to the
16 amount of child support that the parent was ordered to pay in the most recent
17 determination of support under this chapter. The child support obligation ordered
18 under this paragraph continues until the parent makes timely payment in full for
19 3 consecutive months or until the person participates in the program under s. 49.36
20 for 16 weeks, whichever occurs first. The court shall provide in its order that the
21 parent shall make child support payments calculated under s. 767.511 (1j) or (1m)
22 after the obligation to make payments ordered under this paragraph ceases.

23 **SECTION 23.** 767.553 (1) (a) of the statutes is amended to read:

24 767.553 (1) (a) An order for child or family support under this chapter may
25 provide for an annual adjustment in the amount to be paid based on a change in the

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1 payer's income if the amount of child or family support is expressed in the order as
2 a fixed sum and based on the percentage standard ~~established by the department~~
3 under s. ~~49.22 (9)~~ 767.511 (1j) (b). No adjustment may be made under this section
4 unless the order provides for the adjustment.

5 SECTION 24. 767.553 (1) (b) of the statutes is amended to read:

6 767.553 (1) (b) An adjustment under this section may not be made more than
7 once in a year and shall be determined on the basis of the percentage standard
8 ~~established by the department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b).

9 SECTION 25. 767.59 (1f) (b) 4. of the statutes is amended to read:

10 767.59 (1f) (b) 4. ~~A. If the action is one to revise a judgment or order with respect~~
11 ~~to child support ordered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183~~
12 ~~(4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), a difference between the~~
13 amount of child support ordered by the court to be paid by the payer and the amount
14 that the payer would have been required to pay based on the percentage standard
15 established by the department under s. 49.22 (9) if the court did not use ~~the~~ that
16 percentage standard in determining the child support payments and did not provide
17 the information required under s. 46.10 (14) (d), 49.345 (14) (d), 301.12 (14) (d), or
18 767.511 (1n), whichever is appropriate. (1r)

19 SECTION 26. 767.59 (1f) (b) 5. of the statutes is created to read:

20 767.59 (1f) (b) 5. If the action is one to revise a judgment or order with respect
21 to child support or family support ordered under this chapter or s. 948.22 (7), a
22 difference between the amount of child support ordered by the court to be paid by the
23 payer and the amount that the payer would have been required to pay based on the
24 percentage standard under s. 767.511 (1j) (b) if the court did not use that percentage

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1 standard in determining the child support payments and did not provide the
2 information required under s. 767.511 (1n) → (1r)

3 SECTION 27. 767.59 (2) (a) of the statutes is amended to read:

4 767.59 (2) (a) Except as provided in par. (b) or (c), if the court revises a judgment
5 or order with respect to child support payments, it shall do so by using the percentage
6 standard established by the department under s. 49.22 (9) 767.511 (1j) (b).

7 SECTION 28. 767.80 (7) of the statutes is amended to read:

8 767.80 (7) CLERK TO PROVIDE DOCUMENT. The clerk of court shall provide without
9 charge to each person bringing an action under this section, except to the state under
10 sub. (1) (g) or (6m), a document setting forth the percentage standard established by
11 the department under s. 49.22 (9) 767.511 (1j) (b) and listing the factors that a court
12 may consider under s. 767.511 (1m).

13 SECTION 29. 767.813 (6) of the statutes is amended to read:

14 767.813 (6) DOCUMENT. The summons served on the respondent shall be
15 accompanied by a document, provided without charge by the clerk of court, setting
16 forth the percentage standard established by the department under s. 49.22 (9)
17 767.511 (1j) (b) and listing the factors that a court may consider under s. 767.511
18 (1m).

19 SECTION 30. 767.85 (2) of the statutes is amended to read:

20 767.85 (2) CONSIDERATIONS. Before making any temporary order under sub. (1),
21 the court shall consider those factors that the court is required to consider when
22 granting a final judgment on the same subject matter. If the court makes a
23 temporary child support order that deviates from the amount of support that would
24 be required by using the percentage standard established by the department under

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1 s. ~~49.22 (9)~~ 767.511 (1j) (b), the court shall comply with the requirements of s. 767.511

2 (1m) → (1r)

3 [↑] SECTION 31. Nonstatutory provisions.
strike

4 (1) SUBSTANTIAL CHANGE IN CIRCUMSTANCES. Notwithstanding section 767.59 (1f)

5 (b) 5. of the statutes, as created by this act, the renumbering and amendment of
6 section 767.511 (1j) of the statutes by this act and the creation of section 767.511 (1j)

7 (b) 1. to 4. and (1m) (bc) of the statutes by this act constitute a substantial change
8 in circumstances on which may be based a revision under section 767.59 of the
9 statutes of a judgment or order with respect to child or family support.

10 (2) AGREEMENTS VOID. Any agreement entered into before the effective date of
11 this subsection by parties to an action affecting the family, as defined in section
12 767.001 (1) of the statutes, that relates to child support and that has not been
13 approved by a court before the effective date of this subsection is void unless the
14 parties reaffirm the agreement in writing or in open court on or after the effective
15 date of this subsection.

16 (3) DOCUMENT PROVIDED BY CLERK SETTING FORTH PERCENTAGE STANDARD.

17 (a) Notwithstanding sections 767.215 (1) (b) and (2m) (a) 2., 767.511 (1m) (bc),
18 767.80 (7), and 767.813 (6) of the statutes, as affected by this act, and SECTION 32 (2)
19 (a) of this act, a clerk of court is not required to provide a document under section
20 767.215 (1) (b) or (2m) (a) 2., 767.80 (7), or 767.813 (6) of the statutes, as affected by
21 this act, that sets forth the percentage standard under section 767.511 (1j) (b) of the
22 statutes, as affected by this act, and lists the factors that a court may consider under
23 section 767.511 (1m) of the statutes, including section 767.511 (1m) (bc) of the
24 statutes, as created by this act, before the first day of the 3rd month beginning after
25 the effective date of this paragraph.

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1 (b) Before the date specified in paragraph (a), a clerk of court may, in all actions
2 affecting the family, provide a document under section 767.215 (1) (b) or (2m) (a) 2.,
3 767.80 (7), or 767.813 (6) of the statutes, as affected by this act, that sets forth the
4 percentage standard established by the department of children and families under
5 section 49.22 (9) of the statutes and lists the factors that a court may consider under
6 section 767.511 (1m) (a), (b), and (bj) to (i) of the statutes.

7 (c) As soon as practicable after the date specified in paragraph (a), a clerk of
8 court shall provide a document that sets forth the percentage standard under section
9 767.511 (1j) (b) of the statutes, as affected by this act, and lists the factors that a court
10 may consider under section 767.511 (1m) of the statutes, including section 767.511
11 (1m) (bc) of the statutes, as created by this act, to each person to whom the clerk
12 provided, after the effective date of this paragraph, a document described in
13 paragraph (b), except for a person who is a party in an action affecting the family, as
14 defined in section 767.001 (1) (m) of the statutes.

15 (d) Each person who receives a document under paragraph (c) from a clerk of
16 court and who served a summons under section 767.215 (2m) of the statutes, as
17 affected by this act, or under section 767.813 (6) of the statutes, as affected by this
18 act, after the effective date of this paragraph accompanied by a document described
19 in paragraph (b) shall provide the document received from the clerk under paragraph
20 (c) to the party on whom the summons accompanied by the document described in
21 paragraph (b) was served.

22 **SECTION 32. Initial applicability.**

23 (1) GENERAL. Except as provided in subsection (2), this act first applies to child
24 or family support orders, including temporary orders and orders revising judgments
25 or orders previously granted, that are granted on the effective date of this subsection.

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1 (2) DOCUMENTS PROVIDED BY CLERK.

(a) The treatment of sections 767.215 (1) (b) and (2m) (a) 2., 767.80 (7), and 767.813 (6) of the statutes first applies to actions or proceedings, including actions or proceedings to modify a judgment or order previously granted, that are commenced on the effective date of this paragraph.

(b) SECTION 31 (3) of this act first applies to actions or proceedings, including actions or proceedings to modify a judgment or order previously granted, that are commenced on the effective date of this paragraph.

9 (END)

D - vote

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3501/ins²
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v m not run

INSERT A-1

not Under the bill, net monthly income is a parent's gross monthly income, determined in the manner provided in the code, less federal and state income tax that would be withheld, or that would be paid by a self-employed individual, based on the actual number of dependents that the individual or self-employed individual is legally entitled to claim on his or her income tax return.

(END OF INSERT A-1)

INSERT A-2

not However, if the court does modify the amount of child support that would be ordered by using the new percentage standard, the court is still prohibited from calculating any child support on a parent's net income over \$150,000 per year, unless the parties agree in writing or in open court that the court is not prohibited from doing so. In addition, the

(END OF INSERT A-2)

INSERT 6-21

- 1 *not* based on the actual number of dependents that the individual is legally entitled
2 to claim on his or her income tax return or that would

(END OF INSERT 6-21)

INSERT 6-22

- 3 *not* based on the actual number of dependents that the self-employed individual
4 is legally entitled to claim on his or her income tax return

(END OF INSERT 6-22)

INSERT 9-5

- 5 **SECTION 1.** 767.511 (1p) of the statutes is created to read:
6 767.511 (1p) LIMIT ON DEVIATION FROM STANDARD. Unless the parties agree
7 otherwise in writing or in open court, the court shall comply with sub. (1j) (b) 2m. in
8 any modification of child support payments under sub. (1m).

(END OF INSERT 9-5)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

Date

LRB-3501/1dn

PJK:.....

*✓ m not run
need*

For the language for the definition of "net income" in proposed s. 767.511 (1j) (a) 2., I consulted with the attorney who drafts individual income taxation. He suggested that you have DOR review the language to make sure it accomplishes your intent.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3501/2dn
PJK:med:rs

February 28, 2012

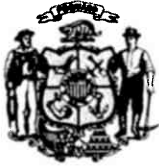
For the language for the definition of "net income" in proposed s. 767.511 (1j) (a) 2., I consulted with the attorney who drafts individual income taxation. He suggested that you have DOR review the language to make sure it accomplishes your intent.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Parisi, Lori

From: Childs, Nicole
Sent: Wednesday, February 29, 2012 9:34 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-3501/2 Topic: Calculation of child support

Please Jacket LRB 11-3501/2 for the ASSEMBLY.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3501/2
PJK:sac&med:rs

2011 BILL

1 **AN ACT** *to renumber and amend* 767.511 (1j), 767.511 (1n) and 767.511 (2); *to*
2 *amend* 767.215 (1) (b), 767.215 (2m) (a) 2., 767.225 (1n) (b) 1., 767.511 (1) (a),
3 767.511 (1j) (title), 767.511 (1m) (intro.), 767.511 (2) (title), 767.513 (2), 767.55
4 (2) (c), 767.553 (1) (a), 767.553 (1) (b), 767.59 (1f) (b) 4., 767.59 (2) (a), 767.80 (7),
5 767.813 (6) and 767.85 (2); and *to create* 767.511 (1j) (a), 767.511 (1j) (b) 1.,
6 767.511 (1j) (b) 2., 767.511 (1j) (b) 2m., 767.511 (1j) (b) 3., 767.511 (1j) (b) 4.,
7 767.511 (1j) (b) 5., 767.511 (1m) (bc), 767.511 (1p), 767.511 (1s), 767.511 (2) (b)
8 and 767.59 (1f) (b) 5. of the statutes; **relating to:** calculating child support and
9 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, in divorces, paternity actions, and other actions affecting the family in which there are minor children the court is required to order either or both parents to pay an amount that is reasonable or necessary to fulfill a duty to support a child. The court must generally determine child support payments by using the percentage standard set out in the Wisconsin Administrative Code (code) and established by the Department of Children and Families (DCF). The percentage standard is a percentage of the child support payer's monthly income available for

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support. The percentage that the child support payer must pay varies with the number of children to be supported. Under the percentage standard, a payer must pay 17 percent of his or her monthly income available for support for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for five or more children. Generally, the parent who has physical placement with a child for less time is ordered to pay child support to the other parent on the basis of the percentage standard.

In addition to the percentage standard, the code provides special methods that the court may, but is not required to, use for calculating child support in special situations: serial-family parents; shared-placement payers; split-placement payers; low-income payers; and high-income payers. A serial-family parent is a parent who is already obligated to pay child support and who is later ordered to pay support for another child, from a later marriage or a paternity adjudication, for example. The amount of support that the person must pay under the later order may be calculated by first reducing the payer's monthly income available for support by the amount under the first child support order and then applying the percentage standard to that reduced income amount.

Shared-placement parents are parents who both have physical placement with a child for at least 25 percent of the time or 92 days a year and who are both ordered by the court to assume the child's basic support costs in proportion to the time that the parent has placement of the child. For shared-placement parents, child support may be determined by multiplying each parent's income by the percentage standard, multiplying each of those resulting amounts by 150 percent, and then multiplying the resulting amount determined for each parent by the other parent's proportion of physical placement. The parent with the higher resulting amount pays to the other parent the difference between the amounts or the amount that would be determined by applying the percentage standard to his or her income, whichever is lower.

Split-placement parents are parents who have two or more children and each has placement with at least one but not all of the children. Under the code, child support may be determined by multiplying each parent's income by the pro rata percentage standard that applies for the number of children placed with the other parent. (For example, if there are two children and each parent has physical placement with one child, the pro rata percentage standard is 12.5 percent, or one-half of the 25 percent that applies for two children under the percentage standard.) The parent who would be required to pay the higher amount pays the difference to the other parent.

For low-income payers and high-income payers, the court may determine child support by using a schedule of percentages that are different from the percentages in the percentage standard. Currently, a low-income payer is one with annual income available for support of \$16,200 or less. This amount, which is 150 percent of poverty, is adjusted based on federal poverty guidelines. The schedule of percentages is reduced for each income level in gradients of \$25 per monthly income amount. Currently, the percentages, depending on income level, range from 11.11 percent to 17 percent for one child and from 22.22 percent to 34 percent for five or more children. For high-income payers, child support may be determined by

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multiplying annual income available for support that is less than \$84,000 by the usual percentages of the percentage standard, income between \$84,000 and \$150,000 by a different schedule of percentages that are about 80 percent of the usual percentages, and income above \$150,000 by another schedule of percentages that are about 60 percent of the usual percentages. For example, for a payer with annual income available for support above \$150,000, child support for one child may be determined by multiplying the payer's monthly income under \$7,000 by 17 percent, multiplying the additional monthly income between \$7,000 and \$12,500 by 14 percent, multiplying the additional monthly income over \$12,500 by 10 percent, and adding together the amounts obtained.

The code provides that the court must determine a parent's monthly income that is available for child support by dividing by 12 the sum of the parent's gross annual income, or gross annual income modified for business expenses, the parent's annual imputed income based on earning capacity, and the parent's annual income imputed from assets. Under the code, the court may impute income to a payer if the court determines that the payer's income is less than his or her earning capacity or if the payer has unproductive assets or has diverted income into assets to avoid paying child support. For imputing income based on earning capacity, the court assesses the parent's education, training, previous work experience and income level, and the availability of work in or near the parent's community. Income imputation for unproductive assets involves multiplying the net value of the parent's assets by the current six-month treasury bill rate or another reasonable rate.

Under the statutes, a court is authorized, upon a party's request, to modify the amount of child support that would be ordered by using the percentage standard if the court finds that use of the percentage standard is unfair to the child or either of the parties. In making this finding, the court must consider a number of factors, such as the earning capacity of each parent, the desirability that the custodian remain in the home as a full-time parent, and extraordinary travel expenses incurred in exercising physical placement rights.

This bill sets out a child support percentage standard in the statutes for actions affecting the family and specifies how a court must determine child support, including for revisions of existing child support orders. Under the bill, the court must determine the support obligation of each parent who has physical placement with a child for less than 75 percent of the time and order one or both parents to pay an amount for the support of the child. To calculate a parent's child support obligation, the parent's net monthly income is multiplied by a specified percentage. Under the bill, net monthly income is a parent's gross monthly income, determined in the manner provided in the code, less federal and state income tax that would be withheld, or that would be paid by a self-employed individual, based on the actual number of dependents that the individual or self-employed individual is legally entitled to claim on his or her income tax return. If a parent's net monthly income is \$7,000 or less (which equals \$84,000 or less of net annual income), his or her total net monthly income is multiplied by the same percentages as the percentage standard under the code: 17 percent for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, and 34 percent for more than

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four children. However, if a parent's net monthly income exceeds \$7,000, his or her total net monthly income is multiplied by 14 percent for one child, 20 percent for two children, 23 percent for three children, 25 percent for four children, and 27 percent for more than four children, except that the court may not calculate a parent's child support obligation on any of the parent's net income that exceeds \$150,000 per year, annually adjusted in accordance with the consumer price index.

Under current law, in addition to ordering child support for a child, the court is required to assign responsibility for payment of the child's health care expenses and may require a parent to initiate or continue health insurance coverage for the child. Under the bill, after determining a parent's monthly child support obligation, the court must deduct from that amount any amount the parent currently pays, or is ordered to pay, for the child's health care coverage, health care expenses not covered by insurance, and child care expenses. Then, if both parents have physical placement with a child for more than 25 percent of the time, each parent's child support obligation, thus determined, is multiplied by the percentage of time that the other parent has physical placement with the child to determine each parent's comparative child support obligation. Whichever parent has the larger comparative child support obligation pays the difference between the two to the other parent as child support.

Under the bill, a court is still authorized, upon a party's request, to modify the amount of child support that would be ordered by using the new percentage standard if the court finds that its use is unfair to the child or either of the parties after considering the factors under current law. However, if the court does modify the amount of child support that would be ordered by using the new percentage standard, the court is still prohibited from calculating any child support on a parent's net income over \$150,000 per year, unless the parties agree in writing or in open court that the court is not prohibited from doing so. In addition, the bill adds, as another factor for the court to consider, the amount of income actually available to a parent for the payment of child support. The bill directs DCF to promulgate rules on how to compute the amount of income actually available to a parent, and provides that, if a parent is self-employed, a cash flow statement from a certified public accountant on behalf of the parent establishes the parent's income that is actually available for support.

Current law provides that the court may require a portion of the amount that either party must pay in child support to be set aside in a separate fund or trust for the support, education, and welfare of the child. The bill does not change the ability of the court to set funds aside for the child. The bill adds, however, that if the court determines that the amount of child support calculated in the new manner exceeds the amount reasonably necessary to support the child's current needs, the court must order the excess to be deposited in an account that requires the signatures of both parents for withdrawal, to be used for any extraordinary needs of the child. When the child support obligation ends, any funds remaining must be used for postsecondary education expenses of the child. Any funds remaining after ten years after the child support obligation ends must be returned to the parent or parents in

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proportion to their comparative child support obligations or distributed in another manner specified by the court.

Under current law, the court may revise the amount of child support under an existing order only if the court finds that there has been a substantial change in circumstances. The bill provides that the creation of the new percentage standard in the statutes and the other new requirements related to determining child support constitute a substantial change in circumstances on which a revision may be based. The bill also provides that any agreement related to child support that was entered into before the effective date of the bill that has not yet been approved by a court is void unless the parties reaffirm the agreement in writing or in open court on or after the effective date of the bill. Finally, the bill provides that the court may determine a parent's child support obligation in conformity with any provisions of the code that are not in conflict with the new percentage standard or other new requirements in the statutes.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 767.215 (1) (b) of the statutes is amended to read:

2 767.215 (1) (b) The clerk of court shall provide without charge, to each person
3 filing a petition requesting child support, a document setting forth the percentage
4 standard ~~established by the department~~ under s. ~~49.22 (9)~~ 767.511 (1j) (b) and listing
5 the factors that a court may consider under s. 767.511 (1m).

6 **SECTION 2.** 767.215 (2m) (a) 2. of the statutes is amended to read:

7 767.215 (2m) (a) 2. Shall be accompanied by a document, provided without
8 charge by the clerk of court, setting forth the percentage standard under s. 767.511
9 (1j) (b) or, if the action affecting the family is one under s. 767.001 (1) (m), the
10 percentage standard established by the department under s. 49.22 (9) and listing the
11 factors that a court may consider under s. 767.511 (1m).

12 **SECTION 3.** 767.225 (1n) (b) 1. of the statutes is amended to read:

BILL

1 767.225 (1n) (b) 1. If the court makes a temporary child support order that
2 deviates from the amount of support that would be required by using the percentage
3 standard under s. 767.511 (1j) (b) or, if the action affecting the family is one under
4 s. 767.001 (1) (m), the percentage standard established by the department under s.
5 49.22 (9), the court shall comply with the requirements of relating to the court's
6 statements in writing or on the record described under s. 767.511 (1n) (1r).

7 SECTION 4. 767.511 (1) (a) of the statutes is amended to read:

8 767.511 (1) (a) Order Determine the support obligation of each parent who has
9 physical placement with his or her child for less than 75 percent of the time and order
10 either or both parents to pay an amount reasonable or necessary to fulfill a duty to
11 support ~~a~~ the child. The support amount must be expressed as a fixed sum unless
12 the parties have stipulated to expressing the amount as a percentage of the payer's
13 income and the requirements under s. 767.34 (2) (am) 1. to 3. are satisfied.

14 SECTION 5. 767.511 (1j) (title) of the statutes is amended to read:

15 767.511 (1j) (title) PERCENTAGE CALCULATION: PERCENTAGE STANDARD GENERALLY
16 REQUIRED.

17 SECTION 6. 767.511 (1j) of the statutes is renumbered 767.511 (1j) (b) (intro.)
18 and amended to read:

19 767.511 (1j) (b) (intro.) Except as provided in sub. (1m), the court shall
20 determine the child support ~~payments by using the percentage standard established~~
21 ~~by the department under s. 49.22 (9).~~ obligation of a parent in the following manner:

22 SECTION 7. 767.511 (1j) (a) of the statutes is created to read:

23 767.511 (1j) (a) In this subsection:

24 1. "Gross income" has the meaning given in s. DCF 150.02 (13) (a), Wis. Adm.
25 Code.

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1 2. "Net income" means gross income less federal and state income tax that
2 would be withheld based on the actual number of dependents that the individual is
3 legally entitled to claim on his or her income tax return or that would be paid by a
4 self-employed individual based on the actual number of dependents that the
5 self-employed individual is legally entitled to claim on his or her income tax return.

6 **SECTION 8.** 767.511 (1j) (b) 1. of the statutes is created to read:

7 767.511 (1j) (b) 1. Subject to subd. 3., if the parent's total monthly net income
8 is \$7,000 or less, his or her monthly child support obligation equals the amount that
9 is the following percentage of his or her total monthly net income:

- 10 a. For one child, 17 percent.
11 b. For 2 children, 25 percent.
12 c. For 3 children, 29 percent.
13 d. For 4 children, 31 percent.
14 e. For more than 4 children, 34 percent.

15 **SECTION 9.** 767.511 (1j) (b) 2. of the statutes is created to read:

16 767.511 (1j) (b) 2. Subject to subds. 2m. and 3., if the parent's total monthly net
17 income exceeds \$7,000, his or her monthly child support obligation equals the
18 amount that is the following percentage of his or her total monthly net income:

- 19 a. For one child, 14 percent.
20 b. For 2 children, 20 percent.
21 c. For 3 children, 23 percent.
22 d. For 4 children, 25 percent.
23 e. For more than 4 children, 27 percent.

24 **SECTION 10.** 767.511 (1j) (b) 2m. of the statutes is created to read:

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1 767.511 (1j) (b) 2m. The court may not calculate the amount of child support
2 that a parent is obligated to pay on any of the parent's net income that exceeds
3 \$150,000 per year. This amount shall be adjusted annually, beginning in 2013, to
4 reflect changes in the consumer price index for all urban consumers, U.S. city
5 average, as determined by the U.S. department of labor.

6 **SECTION 11.** 767.511 (1j) (b) 3. of the statutes is created to read:

7 767.511 (1j) (b) 3. When the court calculates a parent's child support obligation,
8 unless the parties agree otherwise in writing or orally in open court, the court shall
9 reduce the amount determined under subd. 1. or 2. for the parent by the amount per
10 month that the parent currently pays or is ordered to pay for any of the following
11 costs:

12 a. Health care coverage for the child.

13 b. The child's health care expenses that are not covered by insurance.

14 c. Child care expenses.

15 **SECTION 12.** 767.511 (1j) (b) 4. of the statutes is created to read:

16 767.511 (1j) (b) 4. If each parent has physical placement with a child for more
17 than 25 percent of the time, the child support obligation of each parent shall be
18 calculated as provided in subds. 1. to 3. and multiplied by the percentage of time that
19 the other parent has physical placement with the child. The product of a parent's
20 child support obligation multiplied by the percentage of time that the other parent
21 has physical placement with the child is that parent's comparative child support
22 obligation amount. Subject to sub. (2) (b), the parent with the larger comparative
23 child support obligation amount shall pay to the other parent that amount reduced
24 by the payee parent's comparative child support obligation amount.

25 **SECTION 13.** 767.511 (1j) (b) 5. of the statutes is created to read:

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1 767.511 (1j) (b) 5. In addition to the calculations under subds. 1. to 4., the court
2 may determine a parent's child support obligation under this section in conformity
3 with any provisions of ch. DCF 150, Wis. Adm. Code, that are not in conflict with
4 subds. 1. to 4.

5 **SECTION 14.** 767.511 (1m) (intro.) of the statutes is amended to read:

6 767.511 (1m) DEVIATION FROM STANDARD; FACTORS. (intro.) Upon request by a
7 party, the court may modify the amount of child support payments determined under
8 sub. (1j), subject to sub. (1p), if, after considering the following factors, the court finds
9 by the greater weight of the credible evidence that use of the that percentage
10 standard is unfair to the child or to any of the parties:

11 **SECTION 15.** 767.511 (1m) (bc) of the statutes is created to read:

12 767.511 (1m) (bc) The amount of income actually available to a parent for the
13 payment of child support.

14 **SECTION 16.** 767.511 (1n) of the statutes is renumbered 767.511 (1r) and
15 amended to read:

16 767.511 (1r) DEVIATION FROM STANDARD; RECORD. If the court finds under sub.
17 (1m) that use of the percentage standard under sub. (1j) (b) is unfair to the child or
18 the requesting party, the court shall state in writing or on the record the amount of
19 support that would be required by using the percentage standard, the amount by
20 which the court's order deviates from that amount, its reasons for finding that use
21 of the percentage standard is unfair to the child or the party, its reasons for the
22 amount of the modification, and the basis for the modification.

23 **SECTION 17.** 767.511 (1p) of the statutes is created to read:

BILL

1 767.511 (1p) LIMIT ON DEVIATION FROM STANDARD. Unless the parties agree
2 otherwise in writing or in open court, the court shall comply with sub. (1j) (b) 2m. in
3 any modification of child support payments under sub. (1m).

4 **SECTION 18.** 767.511 (1s) of the statutes is created to read:

5 767.511 (1s) RULES FOR INCOME AVAILABLE FOR SUPPORT. The department shall
6 promulgate rules related to how the amount of income actually available to a parent
7 for the payment of child support shall be computed for purposes of sub. (1m) (bc). If
8 a parent is self-employed, a cash flow statement prepared by a certified public
9 accountant on behalf of the parent shall establish the parent's income actually
10 available for the payment of child support for purposes of sub. (1m) (bc).

11 **SECTION 19.** 767.511 (2) (title) of the statutes is amended to read:

12 767.511 (2) (title) SEPARATE ACCOUNT, FUND, OR TRUST.

13 **SECTION 20.** 767.511 (2) of the statutes is renumbered 767.511 (2) (a) and
14 amended to read:

15 767.511 (2) (a) The Except as provided in par. (b), the court may protect and
16 promote the best interests of the minor children by setting aside a portion of the child
17 support which that either party is ordered to pay in a separate fund or trust for the
18 support, education, and welfare of such children.

19 **SECTION 21.** 767.511 (2) (b) of the statutes is created to read:

20 767.511 (2) (b) If the court determines that the amount of child support
21 calculated in the manner provided in this section exceeds the amount reasonably
22 necessary to support the child's current needs, the court shall order that the excess
23 amount be deposited in an account requiring the signatures of both parents for
24 withdrawal, to be used for any extraordinary needs of the child on which the parents
25 agree. Any funds remaining in the account when the child support obligation ends

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1 shall be used for postsecondary education expenses for the child. Any funds
2 remaining in the account after 10 years from the date on which the child support
3 obligation ends shall be returned to the parents in proportion to the comparative
4 child support obligation of each under sub. (1j) (b) 4. or, if only one parent had a child
5 support obligation, to that parent, or shall be distributed in another manner
6 specified by the court.

7 **SECTION 22.** 767.513 (2) of the statutes is amended to read:

8 767.513 (2) RESPONSIBILITY AND PAYMENT. In addition to ordering child support
9 for a child under s. 767.511 (1), and subject to s. 767.511 (1j) (b) 3. the court shall
10 specifically assign responsibility for and direct the manner of payment of the child's
11 health care expenses. In assigning responsibility for a child's health care expenses,
12 the court shall consider whether a child is covered under a parent's health insurance
13 policy or plan at the time the court approves a stipulation for child support under s.
14 767.34, enters a judgment of annulment, divorce, or legal separation, or enters an
15 order or a judgment in a paternity action or in an action under s. 767.001 (1) (f) or
16 (j), 767.501, or 767.805 (3), the availability of health insurance to each parent
17 through an employer or other organization, the extent of coverage available to a
18 child, and the costs to the parent for the coverage of the child. A parent may be
19 required to initiate or continue health care insurance coverage for a child under this
20 section. If a parent is required to do so, he or she shall provide copies of necessary
21 program or policy identification to the custodial parent and is liable for any health
22 care costs for which he or she receives direct payment from an insurer. This section
23 shall not be construed to limit the authority of the court to enter or modify support
24 orders containing provisions for payment of medical expenses, medical costs, or
25 insurance premiums that are in addition to and not inconsistent with this section.

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1 SECTION 23. 767.55 (2) (c) of the statutes is amended to read:

2 767.55 (2) (c) If the court enters an order under par. (am), it shall order the
3 parent to pay child support equal to the amount determined by applying the
4 percentage standard established under s. 49.22 (9) 767.511 (1j) (b) or equal to the
5 amount of child support that the parent was ordered to pay in the most recent
6 determination of support under this chapter. The child support obligation ordered
7 under this paragraph continues until the parent makes timely payment in full for
8 3 consecutive months or until the person participates in the program under s. 49.36
9 for 16 weeks, whichever occurs first. The court shall provide in its order that the
10 parent shall make child support payments calculated under s. 767.511 (1j) or (1m)
11 after the obligation to make payments ordered under this paragraph ceases.

12 SECTION 24. 767.553 (1) (a) of the statutes is amended to read:

13 767.553 (1) (a) An order for child or family support under this chapter may
14 provide for an annual adjustment in the amount to be paid based on a change in the
15 payer's income if the amount of child or family support is expressed in the order as
16 a fixed sum and based on the percentage standard established by the department
17 under s. 49.22 (9) 767.511 (1j) (b). No adjustment may be made under this section
18 unless the order provides for the adjustment.

19 SECTION 25. 767.553 (1) (b) of the statutes is amended to read:

20 767.553 (1) (b) An adjustment under this section may not be made more than
21 once in a year and shall be determined on the basis of the percentage standard
22 established by the department under s. 49.22 (9) 767.511 (1j) (b).

23 SECTION 26. 767.59 (1f) (b) 4. of the statutes is amended to read:

24 767.59 (1f) (b) 4. A. If the action is one to revise a judgment or order with respect
25 to child support ordered under s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183

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1 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), or 938.363 (2), a difference between the
2 amount of child support ordered by the court to be paid by the payer and the amount
3 that the payer would have been required to pay based on the percentage standard
4 established by the department under s. 49.22 (9) if the court did not use ~~the~~ that
5 percentage standard in determining the child support payments and did not provide
6 the information required under s. 46.10 (14) (d), 49.345 (14) (d), 301.12 (14) (d), or
7 767.511 ~~(1n)~~ (1r), whichever is appropriate.

8 **SECTION 27.** 767.59 (1f) (b) 5. of the statutes is created to read:

9 767.59 (1f) (b) 5. If the action is one to revise a judgment or order with respect
10 to child support or family support ordered under this chapter or s. 948.22 (7), a
11 difference between the amount of child support ordered by the court to be paid by the
12 payer and the amount that the payer would have been required to pay based on the
13 percentage standard under s. 767.511 (1j) (b) if the court did not use that percentage
14 standard in determining the child support payments and did not provide the
15 information required under s. 767.511 (1r).

16 **SECTION 28.** 767.59 (2) (a) of the statutes is amended to read:

17 767.59 (2) (a) Except as provided in par. (b) or (c), if the court revises a judgment
18 or order with respect to child support payments, it shall do so by using the percentage
19 standard ~~established by the department under s. 49.22 (9)~~ 767.511 (1j) (b).

20 **SECTION 29.** 767.80 (7) of the statutes is amended to read:

21 767.80 (7) **CLERK TO PROVIDE DOCUMENT.** The clerk of court shall provide without
22 charge to each person bringing an action under this section, except to the state under
23 sub. (1) (g) or (6m), a document setting forth the percentage standard ~~established by~~
24 ~~the department under s. 49.22 (9)~~ 767.511 (1j) (b) and listing the factors that a court
25 may consider under s. 767.511 (1m).

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1 **SECTION 30.** 767.813 (6) of the statutes is amended to read:

2 767.813 (6) DOCUMENT. The summons served on the respondent shall be
3 accompanied by a document, provided without charge by the clerk of court, setting
4 forth the percentage standard ~~established by the department~~ under s. ~~49.22 (9)~~
5 767.511 (1j) (b) and listing the factors that a court may consider under s. 767.511
6 (1m).

7 **SECTION 31.** 767.85 (2) of the statutes is amended to read:

8 767.85 (2) CONSIDERATIONS. Before making any temporary order under sub. (1),
9 the court shall consider those factors that the court is required to consider when
10 granting a final judgment on the same subject matter. If the court makes a
11 temporary child support order that deviates from the amount of support that would
12 be required by using the percentage standard ~~established by the department~~ under
13 s. ~~49.22 (9)~~ 767.511 (1j) (b), the court shall comply with the requirements of s. 767.511
14 ~~(1n)~~ (1r).

15 **SECTION 32. Nonstatutory provisions.**

16 (1) SUBSTANTIAL CHANGE IN CIRCUMSTANCES. Notwithstanding section 767.59 (1f)
17 (b) 5. of the statutes, as created by this act, the renumbering and amendment of
18 section 767.511 (1j) of the statutes by this act and the creation of section 767.511 (1j)
19 (b) 1. to 4. and (1m) (bc) of the statutes by this act constitute a substantial change
20 in circumstances on which may be based a revision under section 767.59 of the
21 statutes of a judgment or order with respect to child or family support.

22 (2) AGREEMENTS VOID. Any agreement entered into before the effective date of
23 this subsection by parties to an action affecting the family, as defined in section
24 767.001 (1) of the statutes, that relates to child support and that has not been
25 approved by a court before the effective date of this subsection is void unless the

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1 parties reaffirm the agreement in writing or in open court on or after the effective
2 date of this subsection.

3 (3) DOCUMENT PROVIDED BY CLERK SETTING FORTH PERCENTAGE STANDARD.

4 (a) Notwithstanding sections 767.215 (1) (b) and (2m) (a) 2., 767.511 (1m) (bc),
5 767.80 (7), and 767.813 (6) of the statutes, as affected by this act, and SECTION 33 (2)
6 (a) of this act, a clerk of court is not required to provide a document under section
7 767.215 (1) (b) or (2m) (a) 2., 767.80 (7), or 767.813 (6) of the statutes, as affected by
8 this act, that sets forth the percentage standard under section 767.511 (1j) (b) of the
9 statutes, as affected by this act, and lists the factors that a court may consider under
10 section 767.511 (1m) of the statutes, including section 767.511 (1m) (bc) of the
11 statutes, as created by this act, before the first day of the 3rd month beginning after
12 the effective date of this paragraph.

13 (b) Before the date specified in paragraph (a), a clerk of court may, in all actions
14 affecting the family, provide a document under section 767.215 (1) (b) or (2m) (a) 2.,
15 767.80 (7), or 767.813 (6) of the statutes, as affected by this act, that sets forth the
16 percentage standard established by the department of children and families under
17 section 49.22 (9) of the statutes and lists the factors that a court may consider under
18 section 767.511 (1m) (a), (b), and (bj) to (i) of the statutes.

19 (c) As soon as practicable after the date specified in paragraph (a), a clerk of
20 court shall provide a document that sets forth the percentage standard under section
21 767.511 (1j) (b) of the statutes, as affected by this act, and lists the factors that a court
22 may consider under section 767.511 (1m) of the statutes, including section 767.511
23 (1m) (bc) of the statutes, as created by this act, to each person to whom the clerk
24 provided, after the effective date of this paragraph, a document described in

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1 paragraph (b), except for a person who is a party in an action affecting the family, as
2 defined in section 767.001 (1) (m) of the statutes.

3 (d) Each person who receives a document under paragraph (c) from a clerk of
4 court and who served a summons under section 767.215 (2m) of the statutes, as
5 affected by this act, or under section 767.813 (6) of the statutes, as affected by this
6 act, after the effective date of this paragraph accompanied by a document described
7 in paragraph (b) shall provide the document received from the clerk under paragraph
8 (c) to the party on whom the summons accompanied by the document described in
9 paragraph (b) was served.

10 **SECTION 33. Initial applicability.**

11 (1) GENERAL. Except as provided in subsection (2), this act first applies to child
12 or family support orders, including temporary orders and orders revising judgments
13 or orders previously granted, that are granted on the effective date of this subsection.

14 (2) DOCUMENTS PROVIDED BY CLERK.

15 (a) The treatment of sections 767.215 (1) (b) and (2m) (a) 2., 767.80 (7), and
16 767.813 (6) of the statutes first applies to actions or proceedings, including actions
17 or proceedings to modify a judgment or order previously granted, that are
18 commenced on the effective date of this paragraph.

19 (b) SECTION 32 (3) of this act first applies to actions or proceedings, including
20 actions or proceedings to modify a judgment or order previously granted, that are
21 commenced on the effective date of this paragraph.

22 (END)